

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**Criminal Writ Petition No.910 of 2018
With
Criminal Application No.2436 of 2019**

- 1) Kadu Kisan Tribhuvan,
Age 47 years,
Occupation : Agriculture.
 - 2) Panchshila Kadu Tribhuvan,
Age 31 years,
Occupation: Household
Both R/o Quadri Nagar,
Vaijapur, Taluka Vaijapur,
District Aurangabad.
 - 3) Shantshila Devanand Navgire,
Age 34 years,
Occupation: Household,
R/o Virgaon, Taluka Vaijapur,
District Aurangabad.
- .. Petitioners.**

Versus

- 1) The State of Maharashtra,
Through Railway Police Station,
Aurangabad,
Taluka & District Aurangabad.
 - 2) Sunita w/o Dharmapal Dange,
Age 32 years,
Occupation : Household,
R/o Behind Old Bus Stand,
Navjivan Colony, Vaijapur,
Taluka Vaijapur,
Dist Aurangabad.
- .. Respondents.**

Shri. Narendra D. Sonavane, Advocate, for petitioners.
Shri. R.D. Sanap, Additional Public Prosecutor, for
respondent No.1.
Shri. Amol S. Gandhi, Advocate, for respondent No.2.

**Coram: T.V. NALAWADE &
R.G. AVACHAT, JJ.**

Date: 9th OCTOBER 2019

JUDGMENT (Per T.V. Nalawade, J.)

1) Rule. Rule made returnable forthwith. By consent, heard both sides for final disposal.

2) The first proceeding is filed for the relief of quashing and setting aside of F.I.R.No.237/2018 registered with Railway Police Station Aurangabad for offence punishable under section 306, 34 of the Indian Penal Code. The second proceeding is filed for the relief of quashing of the charge sheet itself filed in the aforesaid Crime and the case is given R.C.C.No.23/2019 in the Court of learned Judicial Magistrate First Class, Aurangabad.

3) The crime is registered on the basis of report given by Smt. Sunita Dange. The deceased Dharmapal Shilkumar Dange was her husband. Applicant Nos.2 and 3

are the sisters of the deceased and applicant No.1 is the husband of applicant No.2. The deceased was working as Mistri. Shilkumar Dange, father of the deceased was having four acres of agricultural land in village Virgaon. After the death of Shilkumar Dange his successors like widow, two sons and two brothers were entitled to get this property.

4) As the deceased was working as Mistri he was living with the family at Vaijapur. For some time the deceased had attempted to cultivate the land by going to village Virgaon but he was not allowed to cultivate the land by the present applicants and also by the mother of the deceased. As the land was not made available for cultivation he had returned to Vaijapur and he had started working as Mistri. On 20-3-2018 he had expressed to the informant that on that date he was harassed by his two sisters and Kadu, the husband of Panchshila when he had gone there to get permission for cultivation of the land. On 21-3-2018 in the morning time he left home from Vaijapur by saying that he was proceeding to the place of work. He did not return to home and so on 22-3-2018 the

informant went to Virgaon to make inquiry. She learnt there that the deceased had gone to Virgaon for making request to the applicants to allow him to cultivate the land but they had not granted the permission. On 23-3-2018 the informant went to Vaijapur Police Station and gave missing report. On 24-3-2018 she was informed that her husband had died in railway accident at railway station Roteagaon. She had reported that it was suicide. Funeral was completed on 24-3-2018. On that date a suicide note of the husband was shown to the informant and she had identified the handwriting. She approached police and gave report on 26-3-2018.

5) During arguments, the learned counsel for the applicants accused drew attention of this Court to a copy of registered sale deed showing that 35R area from land Gat No.115 was sold and the family of Parigabai, the mother of the deceased was owner of 1H 20 R portion of this land. The transaction took place on 24-7-2014. There is one more document titled as consent document which bears signatures and thumb impressions of all the persons who were entitled to succeed to the property of the

original owner. It is dated 24-7-2014 and this document bears signature of the informant also. This document shows that as per the thinking of the successors, the deceased was entitled to get 35 R portion land and as he wanted to sell his portion the aforesaid sale deed was executed by him and on the sale deed signatures of all the persons who were entitled to succeed to the property were obtained. In addition to that, a consent document was also created and in the consent document it was mentioned that consideration received was given to the deceased. The deceased and the informant had given in writing that they had no objection to enter the names of the remaining legal representatives in the revenue record as the share of the deceased was sold.

6) The copy of the charge sheet filed in the crime shows that it came to be filed against Kadu, Panchshila and Shantshila only and not against the mother of the deceased. There is statement of the mother of the deceased in the police papers and it is consistent with the aforesaid document. This Court has seen the so called suicide note. In view of the aforesaid contentions of the

informant, wife of the deceased, the suicide note can be seen as it is for the present purpose. In the suicide note it is mentioned that present applicants were not allowing him to cultivate the land, they had given threats of life to the deceased and due to that he had decided to commit suicide.

7) In view of aforesaid facts and circumstances of the present matter, even if the suicide note is considered in evidence as it is, it will not be possible for the court to draw inference that the applicants had abetted the suicide of the deceased. It will be abuse of process of law if the present applicants are made to face the trial for the aforesaid offences. In the result, both the proceedings are allowed. Relief of quashing of the case itself is granted to the applicants which is claimed in the application. Rule is made absolute in those terms.

Sd/-
(R.G. AVACHAT, J.)

Sd/-
(T.V. NALAWADE, J.)

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